

Remarks

Entry of the Amendment Filed April 27, 2000

In Paper No. 32 the Examiner states that portions of the amendment "filed February 5, 2002" have not been entered because the text desired to be replaced is allegedly not present at the positions indicated in Applicants' amendment, namely at page 8, line 37, and at page 15, line 1. See Paper No. 32 at page 2, section 2.

According to Applicants' records, no amendment was filed in the instant case on February 5, 2002. However, based on the page and line numbers indicated, it would appear that the Examiner is referring to the amendment filed on April 27, 2000. That amendment initially was not entered because it was erroneously alleged to have been filed after payment of the issue fee, although it actually was filed as a proper amendment under 37 C.F.R. § 1.312 together with payment of the issue fee. Applicants subsequently withdrew the application from issue and filed a Continued Prosecution Application (CPA) on December 11, 2000. On page 2 of the CPA Request Transmittal, Applicants requested entry of the previously filed amendment of April 27, 2000. Applicants have not been advised to the present day whether that amendment has been entered. Clarification is respectfully requested.

The two particular portions of the amendment of April 27, 2000 which do not correspond to the text positions cited have been corrected in the present amendment. The text previously cited as appearing at page 8, line 37 ("many of the ORFs disclosed herein were"), is actually found at page 9, line 37. The text previously cited as appearing at page 15, line 1 ("residues"), is actually found at page 15, line 15. These two particular amendments requested in the April 27, 2000 filing may be ignored in favor of the corresponding amendments requested herewith. Applicants thank the Examiner for pointing out these discrepancies. However, Applicants respectfully request that the remainder of the amendment originally filed on April 27, 2000 be entered.

The Restriction Requirement

In Paper No. 32 the previously issued restriction requirement has been made final. The Examiner has failed to address Applicants' argument that the restriction is not appropriate because the claims have already been searched and found free of the prior art. Applicants will petition from the final restriction requirement in the near future.

Claim Objection

Claim 234 is objected to as being dependent upon non-elected claim 201. Applicants respectfully request that this objection be held in abeyance until a decision is made on Applicants' petition of the restriction requirement. If the petition is granted, the claim objection will be moot. If the petition is not granted, then Applicants will amend claim 234 to include all the limitations of claim 201.

Claim Rejections under 35 U.S.C. § 112, First Paragraph

Claims 241-264 are rejected as allegedly failing to meet the written description requirement. Although two separate rejections are presented, one at page 4 and the other at page 6, both rejections have the same basis and therefore will be discussed together.

The Examiner alleges that the specification does not provide support for the specific amino acid residues cited as epitope bearing portions, such as Arg-10 to Arg-17 of SEQ ID NO:2. The Examiner further states:

[I]t appears that the entire specification appears to fail to recite support for the newly recited specific amino acid residues Arg-10 to Arg-17 of SEQ ID NO:2 and the like. Therefore, it appears that there is no support in the specification.

Paper No. 32 at Page 6, third paragraph. Applicants respectfully disagree and traverse.

The support requested by the Examiner is found *inter alia* in Table 2 at page 98 of the originally filed specification, and in revised Table 2, included in the amendment filed April 27, 2000 at page 8. Thus, Applicants assert that the claim amendments adding claims 241-264 do not include any new matter and that the claimed subject matter has appropriate written description. Reconsideration and withdrawal of the rejection is respectfully requested.

Conclusion

Applicants respectfully request that the above-made remarks be entered and made of record in the file history of the instant application. The Examiner is invited to call the undersigned at the phone number provided below if any further action by Applicant would expedite the examination of this application.

If there are any fees due in connection with the filing of this paper, please charge the fees to our Deposit Account No. 08-3425. If a fee is required for an extension of time under 37 C.F.R. § 1.136, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Dated: 25 September 2003


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